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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D C 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

JAN 27 1977

The Honorable John L. McLucas
Administrator, Federal Aviation
Administration
Department of Transportation

Dear Dr. McLucas

We have reviewed the Federal Aviation Administration's (FAA) procedures for determining whether all civilian airmen are medically fit to fly. Our review of how FAA makes that assessment showed that the required airmen physical standards and examinations will not identify all disqualifying medical conditions and that FAA needs other sources to identify airmen with disqualifying medical conditions.

Physicians who encounter airmen in their routine practices are an important source. A Federal statute, however, requiring private physicians to report medically unfit airmen or granting physicians immunity for providing such information might be subject to legal attack. Unlike the Federal Government, States which license physicians have a right to place a reporting duty upon physicians and grant them immunity.

Because FAA needs all pertinent medical information regarding airmen, we believe States should be encouraged to enact legislation granting physicians immunity from civil responsibility for reporting patient medical data to FAA concerning airmen.

In our review we

- evaluated FAA's medical standards, examination procedures, and program management,
- reviewed court decisions and State laws requiring physicians to report patient medical information, and
- interviewed officials at FAA's Washington, D C , headquarters

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AIRMEN MEDICAL EVALUATIONS

Under the Federal Aviation Act of 1958 (49 U S C 1421) FAA is responsible for prescribing minimum safety standards for airmen--pilots, flight engineers, flight navigators, and air traffic controller tower operators. Airmen must pass a test of aeronautical knowledge and skill, and pass a medical evaluation which is also given periodically thereafter. FAA has established three classes of airman certificates, each with a different medical standard, based on the level of airmen responsibility. Airmen medical examinations are given at intervals varying from 6 months for air transport pilots to 2 years for private pilots.

In our recent report, "The Federal Aviation Administration Should Do More To Detect Civilian Pilots Having Medical Problems" (CED-76-154, Nov 3, 1976), we pointed out that FAA's medical examination procedures do not identify all airmen who are medically unfit to fly, and we concluded that additional medical screening techniques should be required.

In conjunction with additional screening techniques, information is available from other sources concerning an airman's fitness. This report discusses one of these sources--private physicians who encounter airmen in their routine practice.

FAA NEEDS TO OBTAIN AIRMEN MEDICAL DATA FROM PRIVATE PHYSICIANS

FAA generally discovers disqualifying airmen physical conditions during the initial or periodic airmen medical evaluation. At all other times, the Federal Aviation Regulations place the responsibility for determining physical fitness on the airman. Specifically, the airman is responsible for withdrawing from flying status while he has a known medical deficiency that would make him unable to meet FAA medical requirements. However, this does not always occur.

Private physicians who encounter medically unfit airmen in their routine practice are an important source of medical fitness information, but do not always report such airmen for fear of civil suits for breaching their physician-patient relationship established by State law. Some States, however, have laws which restrict the physician-patient relationship by requiring physicians to report certain medical data concerning motor vehicle drivers, and cases of venereal disease, contagious diseases, gunshot wounds, and child abuse.

Physician immunity needed
for reporting unfit airmen

Physicians believe it is their duty to respect patient information as confidential. This duty may, however, be outweighed by a duty to provide information if there is a sufficiently important public interest to protect. Although a number of court decisions reach the opposite conclusion, several support the conclusion that a physician would not be liable in civil actions for disclosing to FAA defects in a pilot's health. Because court decisions have not consistently relieved physicians of civil liability for reporting unfit airmen, physicians remain reluctant to furnish patient data to FAA. Thus, legislation granting this immunity is needed.

Required physician reporting
of patient medical data

The National Committee on Uniform Traffic Laws and Ordinances--composed of Federal, State, and local government units, safety councils, insurance companies, and manufacturers--has recommended legislation requiring physicians to report motor vehicle drivers who have certain mental or physical conditions. The proposed legislation is contained in the Uniform Vehicle Code which the committee established to provide guidance and eliminate differences between State vehicle laws. The Uniform Vehicle Code provides that

"(a) The (State department of health) shall define disorders characterized by lapses of consciousness or other mental or physical disabilities affecting the ability of a person to drive safely for the purpose of the reports required by this section

"(b) All physicians and other persons authorized to diagnose or treat disorders and disabilities defined by the (State department of health) shall report to that department, in writing, the full name, date of birth and address of every person over 15 years of age diagnosed as having any such specified disorder or disability within 10 days

"(c) The (State department of health) shall report to the department the names, dates of birth and addresses of all persons reported as having any such specified disorder or disability

"(d) The reports required by this section shall be confidential and shall be used solely for the purpose of determining the qualifications of any person to drive a motor vehicle on the highways of this State No civil or criminal action may be brought against any person or agency who provides the information required herein

"(e) No report forwarded under the provisions of this section shall be used as evidence in any civil or criminal trial***"
(Underscoring supplied)

According to the committee, the Uniform Vehicle Code attempts to insure that a physician's report does not automatically result in license action. The physician's report merely initiates an evaluation process. The code provides that the report cannot be used as evidence in any judicial hearing challenging license action. The State must investigate and obtain other evidence to support such administrative license action.

Under the Uniform Vehicle Code a person or agency making a required report is immune from civil or criminal responsibility with respect to the required report. The basis for granting broad immunity is to insure the greatest possible physician acceptance of the necessity and desirability of reporting. The committee contends that the Uniform Vehicle Code removes potential objections to the reporting requirement, thus diminishing the possibility of physician noncompliance.

Seven States have laws which, like the Uniform Vehicle Code, require physicians to report patients having specified disorders which could affect driving ability. Two other States have laws authorizing but not requiring such reports by physicians. At least four other States have laws requiring certain State institutions to report persons with specified conditions, such as alcoholism and drug addiction.

Laws requiring physicians to report certain conditions have existed for many years and appear to have achieved some acceptance by both physicians and patients. For example, physicians have long been required by many States to report cases of venereal disease, contagious diseases, and gunshot wounds. Recently, a number of States have enacted laws requiring physicians to report all cases of child abuse.

CONCLUSION

A Federal statute requiring private physicians to report medically unfit airmen to FAA or granting physicians immunity for providing such information might be subject to legal attack. Unlike the Federal Government, the States which license physicians have a right to place a reporting duty upon physicians and grant them immunity. Because FAA needs to have all pertinent medical information regarding airmen, you may wish to encourage States to enact

legislation granting physicians immunity from civil responsibility
for reporting patient medical data to FAA concerning airmen

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We appreciate the courtesy and cooperation extended to our
representatives during our review. Because of our continuing
interest in the area of aviation safety, we would appreciate being
informed of your views on this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Hugh J. Wessinger". The signature is fluid and written in black ink.

Hugh J. Wessinger
Associate Director